

Notice of Allowability

Application No.

10/821,289

Examiner

Russell Frejd

Applicant(s)

FELDSTEIN ET AL.

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment received 21 September 2007.
2. ☒ The allowed claim(s) is/are 1-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


RUSSELL FREJD
PRIMARY EXAMINER

In re Application of: Feldstein et al.

Allowance of Application # 10/821,289

1. The following communication is in response to applicant's amendment received 21-September-2007. Claims 1-30 are pending in the application.

Examiner's Amendment

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee. Authorization for this Examiner's Amendment was given by Brian Kirkpatrick (Reg. No. 53,135) on 7-December-2007.

2.1 In the Claims:

Claims 12-20 line 1	Change "computer-readable medium" to --one or more computer-readable media--.
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Reasons for Allowance

3. The following is an Examiner's Statement of Reasons for the indication of allowable subject matter.

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3.1 Claims 1-30 are allowed over the prior art of record. The present invention discloses testing a network management system by connecting the system to a simulated network. This has been disclosed in the prior art.

While these elements are individually disclosed in the prior art, the prior art of record does not meet the conditions as suggested in MPEP section 2132, namely:

"The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsisimilis verbis test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

The improvement of the present invention comprises, in various embodiments, a method for generating a simulated network that is based on monitoring an actual managed network, wherein build files are automatically generated based on a comparison of a device personality of a network device of the actual managed network, and a stored device configuration is selected which has a stored device personality that is the same as the device personality in order to determine the associated device attributes. This patentable distinction is included in each of the independent claims, nos. 1, 11 and 21.

Dependent claims 2-10, 12-20 and 22-30 are deemed allowable as depending either directly or indirectly from independent claims 1, 11 and 21.

3.2 The instant application is directed to a non-obvious improvement over the invention described in USP 6,014,697, issued to Lewis et al al., which teaches a method for generating a simulated network; and USP 5,809,282, issued to Cooper et al, which teaches selecting options for modifying network architecture in accordance with user preferences.

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3.3 Independent claim 21 further uses “means for” language, and is given deference in view of In re Donaldson and interpreted in view of 35 U.S.C. § 112, Sixth Paragraph. The “means for” language, and the limitations related thereto of claim 21, are interpreted within the scope of enablement as provided within the relative embodiment provided within the specification. In particular, the specific “means for” limitations, as recited in claim 21 and defined by the specification, are interpreted as described in the specification on page 12, line 10 through page 16, line 4, and Figures 3A-B.

3.4 The art of record, either individually or in combination, fails to teach, suggest, or render obvious the specific arrangement of elements in the same combination as now required by the amended claims. In view of the foregoing, the claims of the present application are found to be patentable over the prior art.

Response Guidelines

4. Any comments considered necessary by applicant **MUST** be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should clearly be labeled “Comments on Statement of Reasons for Allowance”.

4.1 Any response to the Examiner in regard to this allowance should be

directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, or the examiner’s supervisor, Kamini Shah, telephone number (571) 272-2279. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

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mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (571) 273-8300

*Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401
Dulany Street, Alexandria, VA, 22314.*

Date: 9-December-2007

/Russell Frejd/
Primary Examiner AU 2128

**RUSSELL FREJD
PRIMARY EXAMINER**